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Tessera/FotoNation Patent Legal Dept. 3025 Orchard Parkway San Jose, CA 95134			QUIETT, CARRAMAH J	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/773,092	PRILUTSKY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Carramah J. Quiett	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 November 2010.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-32,57-85 and 89-104 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-32,57-85 and 89-104 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 04 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### **Response to Amendment**

1. The submission(s), filed on 11/17/2010, have been entered and made of record. Claims 1-32, 57-85 and 89-104 are pending.

### **Response to Arguments**

2. Applicant's arguments with respect to claims 1-32, 57-85 and 89-104 have been considered but are moot in view of the new ground(s) of rejection.

Lastly, in the Remarks filed on 11/17/2010, the Applicants did not address the Claim Objections and the 112 Rejections.

### **Claim Objections**

3. **Claim 18** is objected to because of the following informalities: On the last line of claim 18, please specify what is meant by “thereof”. Appropriate correction is required.

4. **Claim 57** is objected to because of the following informalities: In the Claims filed on 01/22/2010 and 07/13/2009, claim 57 is recited as “A method of filtering a red eye phenomenon...” However, in the Claims filed on 02/17/2009, claim 57 is recited as, “one or more processor-readable media having code embedded therein for programming a processor to perform a method of filtering a red eye phenomenon...” Respectfully, Applicant has not properly crossed out the limitations that are included or not included in claim 57. Appropriate correction is required.

5. **Claim 32** is objected to because of the following informalities: On the last line of claim 32, please specify what is meant by “thereof”. Appropriate correction is required.
6. **Claim 82** is objected to because of the following informalities: On the last line of claim 82, please specify what is meant by “thereof”. Appropriate correction is required.

#### **Claim Rejections - 35 USC § 112**

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
8. **Claims 1-32, 57-85, 89-104** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
9. **Claim 1** recites the limitation "on data obtained from the camera relating to image processing analysis of a precapture image." in the last two lines of claim 1. Claim 1 is recited as:  
  
“A portable digital camera apparatus comprising a housing containing a digital image capturing apparatus, and a red-eye filter also within the housing for modifying an area within a digital image acquired by the apparatus, the area being indicative of a red-eye phenomenon, the modifying being based on detecting the red eye phenomenon including analyzing a subsample resolution representation of selected regions of said digitized image wherein a degree of subsampling of the subsample resolution representation is based upon complexity of calculation of the red-eye filter and on an analysis of meta-data information, and on data obtained from the camera relating to image processing analysis of a precapture image.” (Emphasis Added)

Now that claim 1 recites more than one apparatus, please indicate what acquires a digital image (i.e. the "portable digital camera apparatus" or the "digital image capturing apparatus" . Also, the wording of the claim does not clearly indicate *what's* based "on data obtained from the camera relating to image processing analysis of a precapture image". Is it "the modifying being based... on data obtained from the camera relating to image processing analysis of a precapture image"? Or is it, "a degree of subsampling of the subsample resolution representation is based... on data obtained from the camera relating to image processing analysis of a precapture image"? There is insufficient antecedent basis for this limitation in the claim.

10. **Claim 57** recites the limitation "on data obtained from the portable digital camera device relating to image processing analysis of a precapture image." in the last 3-4 lines of claim 57. The wording of the claim does not clearly indicate *what's* based "on data obtained from the portable digital camera device relating to image processing analysis of a precapture image". Is it "the modifying being based... on data obtained from the portable digital camera device relating to image processing analysis of a precapture image"? Or is it, "a degree of subsampling of the subsample resolution representation is based... on data obtained from the portable digital camera device relating to image processing analysis of a precapture image"? There is insufficient antecedent basis for this limitation in the claim.

11. **Claim 104** recites the limitation "on data obtained from the portable digital camera device relating to image processing analysis of a precapture image." in the last two lines of claim 104. The wording of the claim does not clearly indicate *what's* based "on data obtained from the portable digital camera device relating to image processing analysis of a precapture image". Is it "the modifying being based... on data obtained from the portable digital camera device relating

to image processing analysis of a precapture image”? Or is it, “a degree of subsampling of the subsample resolution representation is based... on data obtained from the portable digital camera device relating to image processing analysis of a precapture image”? There is insufficient antecedent basis for this limitation in the claim.

12. Due to the 112 rejections to claims 1-32, 57-85, 89-104, the Examiner will provide the best interpretation as possible for the prior art rejections.

### **Claim Rejections - 35 USC § 103**

13. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

14. **Claims 1-27, 30-32, 57-77, 80-85, and 89-104** are rejected under 35 U.S.C. 103(a) as being unpatentable over Benati et al. (U.S. Pat. #5748764) in view of White et al. (U.S. Pat. Pub #2004/0041924) and Kinjo et al. (U.S. Pat. #6,631,208).

For **claim 1**, Benati discloses a digital apparatus (10) and a red-eye filter (24) for modifying an area within a digital image acquired by the apparatus, the area being indicative of a red-eye phenomenon, the modifying being based on detecting the red eye phenomenon including analyzing the subsample resolution representation of selected regions of said digital image, wherein the subsample resolution representation comprises an eye region suspected as indicative of red eye (col. 5, lines 27-36), and wherein a degree of said subsampling is based on a complexity of calculation of the red-eye filter (col. 4, line 51 – col. 5, line 36; col. 5, line 38 – col. 6, line 15) and on an analysis of meta-data (bit map) information (figs. 2-4; col. 3, lines 46-62; col. 4, lines 17-45).

However, Benati does not expressly disclose a portable digital camera apparatus comprising a housing containing a digital image capturing apparatus, and a red-eye filter also within the housing for modifying an area within a digital image acquired by the apparatus, and the modifying being based...on data obtained from the camera relating to image processing analysis of a precapture image.

In a similar field of endeavor, White discloses a portable digital camera apparatus (figs. 1, and 3, ref. 10) comprising a housing (fig. 3, ref. 10) containing a digital image capturing apparatus (fig. 1, ref. 10), and a red-eye filter (22) also within the housing for modifying a an area within a digital image acquired by the apparatus (pages 3-4, paragraphs [0039]-[0047]). In light of the teaching of White, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the digital camera apparatus with a portable digital camera apparatus in order enable a user to correct the red-eye detects in an electronic camera (White, paragraph [0045]).

In a similar field of endeavor, Kinjo discloses the modifying being based...on data obtained from the camera relating to image processing analysis of a precapture image (col. 22, line 21 – col. 23, line 14). In light of the teaching of Kinjo, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Benati the apparatus of Kinjo for providing more accurate image corrections to particular regions of the image (Kinjo col. 3, lines 32-50).

For **claim 2**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, wherein the analysis is performed at least in part for determining said area (col. 3, line 63 – col. 4, line 16).

For **claim 3**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, wherein the analysis is performed at least in part for determining said modifying (col. 3, line 63 – col. 4, line 16).

For **claim 4**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, wherein said selected regions of said digitized image comprise the entire image (col. 3, lines 24-45).

For **claim 5**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, wherein said selected regions of said digitized image comprise multi resolution encoding of said image (col. 7, lines 8-35). Also, see fig. 4.

For **claim 6**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, wherein at least one region of the entire image is not included among said selected regions of said image (col. 3, line 63 – col. 4, line 16; col. 4, line 51 – col. 5, line 21).

For **claim 7**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, wherein said analysis is performed in part on a full resolution image and in part on a subsample resolution of said digital image (col. 7, lines 8-35). Also, see fig. 4.

For **claim 8**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, further comprising a module for changing the degree of said subsampling (col. 4, line 51 – col. 5, line 21).

For **claim 9**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 8, wherein said changing the degree of said subsampling is determined empirically (col. 4, lines 6-16).

For **claim 10**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 8, wherein said changing the degree of said subsampling is determined based on a size of said image (col. 7, lines 8-35).

For **claim 11**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 8, wherein said changing the degree of said subsampling is determined based on a size of selected regions of the image (col. 7, lines 8-35).

For **claim 12**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 8, wherein said changing the degree of said subsampling is determined based on data obtained from the camera relating to the settings of the camera at the time of image capture (figs. 2-4; col. 3, lines 24-62; col. 4, lines 17-45).

For **claim 13**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 12, wherein the data obtained from the camera includes an aperture setting or focus of the camera, or both (Kinjo col. 16, line 48 -- col. 17, line 35).

For **claim 14**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 12, wherein the data obtained from the camera includes the distance of the subject from the camera (Kinjo col. 16, line 48 -- col. 17, line 35).

For **claim 15**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 8, wherein said changing the degree of said subsampling is determined based on digitized image metadata (bit map) information (col. 4, lines 17-45).

For **claim 16**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 8, wherein said modifying the area is performed including the full resolution of said digital image (col. 7, lines 8-35).

For **claim 17**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 8, wherein said red-eye filter comprises of a plurality of sub filters (fig. 2, col. 3, lines 46-62).

For **claim 18**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 17, wherein said subsampling for said sub filters operating on selected regions of said image is determined by one or more of the image size (fig. 2, col. 3, lines 46-62; col. 7, lines 8-35), suspected as red eye region size (col. 3, line 63 – col. 4, line 16; col. 4, line 51 – col. 5, line 21), filter computation complexity (col. 4, line 51 – col. 5, line 36; col. 5, line 38 – col. 6, line 15), empirical success rate of said sub filter (col. 4, lines 6-16), empirical false detection rate of said sub filter (col. 3, line 63 – col. 4, line 16; col. 4, line 51 – col. 5, line 21), falsing probability of said sub filter (col. 3, line 63 – col. 4, line 16; col. 4, line 51 – col. 5, line 21), relations between said suspected regions as red eye, results of previous analysis of other said sub filters, or combinations thereof. (col. 5, line 38 – col. 6, line 15).

For **claim 19**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, further comprising memory for saving said digitized image after applying said filter for modifying pixels as a modified image (col. 3, lines 24-35).

For **claim 20**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, further comprising memory for saving said subsample resolution representation of said image (col. 3, lines 24-35).

For **claim 21**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, wherein said subsample resolution representation of selected regions of said image is determined in hardware (col. 3, lines 24-46).

**Claims 22, 23, 24, 25, and 26** are method claims corresponding to method claims 5, 7, 10, and 11 respectively. Therefore, claims 22, 23, 24, 25, and 26 are analyzed and rejected as previously discussed with respect to claims 7, 8, 9, 10, and 11, respectively.

For **claim 27**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 23, wherein said changing the degree of said subsampling is determined based on a complexity of calculation for said filter (col. 4, line 51 – col. 5, line 36; col. 5, line 38 – col. 6, line 15).

**Claims 30 –32** are apparatus claims corresponding to apparatus claims 16-18, respectively. Therefore, claims 30-32 are analyzed and rejected as previously discussed with respect to claims 16-18, respectively.

For **claim 57**, Benati teaches a method of filtering a red eye phenomenon from a digital image captured by a digital camera device containing both a digital image capturing apparatus and a red eye filter, the digital image comprising a multiplicity of pixels indicative of color, the method comprising using the digital image capturing apparatus to capture the digital image, using a processor and the red eye filter of the digital camera device in determining whether one or more regions within a subsample resolution representation of said digitized image are suspected as including red eye artifact wherein the subsample resolution representation comprises an eye region suspected as indicative of red eye, and wherein a degree of subsampling is based on a complexity of calculation of the red-eye filter (col. 4, line 51 – col. 5, line 36; col. 5, line 38 – col. 6, line 15) and on an analysis of meta-data (bit map) information (figs. 2-4; col. 3, lines 46-62; col. 4, lines 17-45), and correcting within the digital camera device the red eye artifact within the one or more regions.

However, Benati does not expressly disclose a portable digital camera device within a same housing containing both a digital image capturing apparatus and a red eye filter, the method comprising using the digital image capturing apparatus contained within the housing to capture the digital image, and using a processor and the red eye filter also contained within the housing, and subsampling is based on data obtained from the portable digital camera device relating to image processing analysis of a precapture image, and correcting within the portable digital camera device the red eye artifact.

In a similar field of endeavor, White discloses a portable digital camera device (figs. 1, and 3, ref. 10) within a same housing (fig. 3, ref. 10) containing both a digital image capturing apparatus (fig. 1, ref. 10) and a red eye filter (22), the method comprising using the digital image capturing apparatus contained within the housing to capture the digital image, and using a processor and the red eye filter also contained within the housing in determining whether one or more regions within a subsample resolution representation of said digitized image are suspected as including red eye artifact (pages 3-4, paragraphs [0039]-[0047]). In light of the teaching of White, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Benati with the method of White in order in order enable a user to correct the red-eye detects in an electronic camera (White, paragraph [0045]).

In a similar field of endeavor, Kinjo discloses subsampling is based on data obtained from the digital camera device relating to image processing analysis of a precapture image (col. 22, line 21 -- col. 23, line 14). In light of the teaching of Kinjo, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Benati

the method of Kinjo for providing more accurate image corrections to particular regions of the image (Kinjo col. 3, lines 32-50).

For **claim 58**, Benati, as modified by White and Kinjo, teaches the method of claim 57, wherein the method further comprising varying a degree of the subsampling for each region of said one or more regions based on said image (col. 3, lines 24-45).

For **claim 59**, Benati, as modified by White and Kinjo, teaches the method of claim 57, wherein the method further comprising generating the subsample resolution representation based on said image (col. 4, line 51 – col. 5, line 21).

For **claim 60**, Benati, as modified by White and Kinjo, teaches the method of claim 57, wherein the method further comprising generating the subsample resolution representation utilizing a hardware-implemented subsampling engine (col. 3, lines 46-62).

For **claim 61**, Benati, as modified by White and Kinjo, teaches the method of claim 57, wherein the method further comprising testing one or more regions within said subsample resolution representation determined as including red eye artifact for determining any false redeye groupings (col. 3, line 63 – col. 4, line 16; col. 4, line 51 – col. 5, line 21).

For **claim 62**, Benati, as modified by White and Kinjo, teaches the method of claim 57, wherein the method further comprising

(c) associating said one or more regions within said subsample resolution representation of said image with one or more corresponding regions within said image (col. 4, line 51 – col. 5, line 21); and

(d) modifying said one or more corresponding regions within said image (col. 7, lines 8-35).

For **claim 63**, Benati, as modified by White and Kinjo, teaches the method of claim 57, wherein the method wherein the determining comprises analyzing meta-data information including image acquisition device-specific information (col. 4, lines 17-45).

For **claim 64**, Benati, as modified by White and Kinjo, teaches the method of claim 57, wherein the method further comprising analyzing the subsample resolution representation of selected regions of said digitized image, and modifying an area determined to include red eye artifact (col. 3, lines 24-45).

**Claims 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76 and 77** are method claims corresponding to apparatus claims 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 19, 20, and 21, respectively. Therefore, claims 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76 and 77 are analyzed and rejected as previously discussed with respect to claims 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 19, 20, and 21, respectively.

**Claims 80-82** are the method claims corresponding to apparatus claims 16-18, respectively. Therefore, claims 80-82 are analyzed and rejected as previously discussed with respect to claims 16-18, respectively.

For **claim 83**, Benati, as modified by White and Kinjo, teaches the apparatus of claim 1, wherein the metadata information comprises image acquisition device-specific metadata (col. 4, lines 17-45).

For **claim 84**, Benati, as modified by White and Kinjo, teaches the apparatus of claim 83, wherein the metadata information comprises digitized image metadata (col. 4, lines 17-45).

**Claim 85** is a method claims corresponding to method claim 84. Therefore, claim 85 is analyzed and rejected as previously discussed with respect to claim 84.

For **claim 89**, Benati, as modified by White and Kinjo, teaches the method of claim 57, wherein the analysis of metadata information comprises analysis of digitized image meta-data (col. 4, lines 17-45).

**Claims 90-91** are method claims each corresponding to method claim 89. Therefore, claims 90-91 are analyzed and rejected as previously discussed with respect to claim 89.

For **claim 92**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, wherein said image processing analysis is based on histogram data obtained from said pre-capture image (Kinjo col. 22, line 21 -- col. 23, line 14).

For **claim 93**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, wherein said image processing analysis is based on color correlogram data obtained from said pre-capture image (Kinjo col. 22, line 21 -- col. 23, line 14).

For **claim 94**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, wherein said image processing analysis is based on global luminance or white balance image data, or both, obtained from said pre- capture image (Kinjo col. 22, line 21 -- col. 23, line 14).

For **claim 95**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, wherein said image processing analysis is based on face detection analysis of said pre-capture image (Benati col. 4, line 51 – col. 5, line 36; col. 5, line 38 – col. 6, line 15) (Kinjo col. 22, line 21 -- col. 23, line 14).

For **claim 96**, Benati, as modified by Kinjo, discloses the apparatus of claim 1, wherein said image processing analysis is based on determining pixel regions with a color characteristic indicative of redeye (Benati col. 4, line 51 – col. 5, line 36; col. 5, line 38 – col. 6, line 15).

For **claim 97**, Benati, as modified by White and Kinjo, discloses the apparatus of claim 1, wherein said image processing analysis is performed in hardware (Benati col. 3, lines 24-46).

**Claims 98-103** are method claims corresponding to apparatus claims 90-97. Therefore, claims 98-103 are analyzed and rejected as previously discussed with respect to claims 90-97.

For **claim 104**, Benati teaches a method of filtering a red eye phenomenon from a digital image acquired with a digital camera device containing both a digital image capturing apparatus and a red eye filter, the digital image comprising a multiplicity of pixels indicative of color, the method comprising using a processor on the digital camera device for determining whether one or more regions within a subsample representation of said digital image are suspected as including red eye artifact, wherein the subsample representation comprises an eye region suspected as indicative of red eye (col. 5, lines 27-36), and wherein a degree of said subsampling is based upon a complexity of calculation of a red-eye filter (col. 4, line 51 – col. 5, line 36; col. 5, line 38 – col. 6, line 15) and on an analysis of meta-data (bit map) information each performed on the digital camera device (figs. 2-4; col. 3, lines 46-62; col. 4, lines 17-45).

However, Benati does not expressly disclose a portable digital camera device within a same housing containing both a digital image capturing apparatus and a red eye filter, the method comprising using the digital image capturing apparatus contained within the housing to capture the digital image, and using a processor and the red eye filter also contained within the housing and subsampling is based on data obtained from the portable digital camera device relating to image processing analysis of a precapture image.

In a similar field of endeavor, White discloses a portable digital camera device (figs. 1, and 3, ref. 10) within a same housing (fig. 3, ref. 10) containing both a digital image capturing

apparatus (fig. 1, ref. 10) and a red eye filter (22), the method comprising using the digital image capturing apparatus contained within the housing to capture the digital image, and using a processor and the red eye filter also contained within the housing in determining whether one or more regions within a subsample resolution representation of said digitized image are suspected as including red eye artifact (pages 3-4, paragraphs [0039]-[0047]). In light of the teaching of White, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Benati with the method of White in order in order enable a user to correct the red-eye detects in an electronic camera (White, paragraph [0045]).

In a similar field of endeavor, Kinjo teaches subsampling is based on data obtained from the camera relating to image processing analysis of a precapture image (col. 22, line 21 -- col. 23, line 14). In light of the teaching of Kinjo, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Benati the apparatus of Kinjo for providing accurate image corrections to particular regions of the image (Kinjo col. 3, lines 32-50).

15. **Claims 28 and 78** are rejected under 35 U.S.C. 103(a) as being unpatentable over Benati et al. (U.S. Pat. #5748764) in view of White et al. (U.S. Pat. Pub #2004/0041924) and Kinjo et al. (U.S. Pat. #6,631,208) as applied to claims 1 and 57 above, and further in view of Nicponski (U.S. Pat. 5974189).

For **claim 28**, Benati, as modified by White and Kinjo, teaches the apparatus of claim 1 further comprising determining said subsample resolution representation (figs. 2-4; col. 3, lines

46-62; col. 4, lines 17-45). However, Benati does not expressly teach determining said subsample resolution representation using spline interpolation.

In a similar field of endeavor, Nicponski teaches determining said subsample resolution representation using spline interpolation (col. 7, lines 27-31). In light of the teaching of Nicponski, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method using spline interpolation in order to enable improved enhancement effects on the image such as shadows, glows, etc. (Nicponski, Abstract).

**Claim 78** is a method claim corresponding to apparatus claim 28. Therefore, claim 78 is analyzed and rejected as previously discussed with respect to claim 28.

16. **Claims 29 and 79** are rejected under 35 U.S.C. 103(a) as being unpatentable over Benati et al. (U.S. Pat. #5748764) in view of White et al. (U.S. Pat. Pub #2004/0041924) and Kinjo et al. (U.S. Pat. #6,631,208) as applied to claims 1 and 57 above, and further in view of Sobel et al. (U.S. Pat. #6,300,935).

For **claim 29**, Benati, as modified by White and Kinjo, teaches the apparatus of claim 1 further comprising determining said subsample representation (Benati figs. 2-4; col. 3, lines 46-62; col. 4, lines 17-45). However, Benati does not expressly disclose using bi-cubic interpolation.

In a similar field of endeavor, Soble discloses a portable digital camera apparatus further comprising determining said subsample representation using bi-cubic interpolation (Soble, col. 8, line 60 – col. 9, line 8). In light of the teaching of Soble, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the digital camera

apparatus with a portable digital camera apparatus in order enable a user to adjust the settings of the camera when the user wants to be mobile (Sobel col. 8, lines 30-49).

**Claim 79** is a method claims corresponding to apparatus claim 29. Therefore, claim 78 is analyzed and rejected as previously discussed with respect to claim 29.

### Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carramah J. Quiett whose telephone number is (571)272-7316. The examiner can normally be reached on 10:00 am - 6:00 pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz can be reached on (571)272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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January 28, 2011